

STATE OF WISCONSIN

SENATE CHAIR
MARK MILLER

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JOINT COMMITTEE ON FINANCE

MEMORANDUM

To: Members
Joint Committee on Finance

From: Senator Mark Miller
Representative Mark Pocan

Date: February 25, 2010

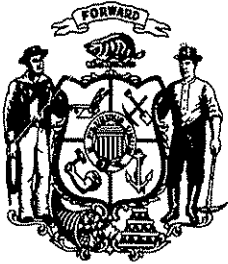
Re: Department of Natural Resources and the Department of
Commerce Semi-Annual Report

Attached is a report on petroleum storage remedial action; financial assistance and petroleum storage tank discharge (PECFA Program) for the period of July 1 through December 31, 2009 from the Department of Natural Resources and Department of Commerce, pursuant to s. 101.143(11), Stats.

This report is being provided for your information only. No action by the Committee is required. Please feel free to contact us if you have any questions.

Attachments

MM:MP;jm



STATE OF WISCONSIN

RECEIVED
FEB 25 2010
BY: St. Finance

February 5, 2010

Sen. Mark Miller, Co-Chair
Joint Committee on Finance
Room 317 East, State Capitol
PO Box 7882
Madison, WI 53707-7882

Rep. Mark Pocan, Co-Chair
Joint Committee on Finance
Room 309 East, State Capitol
PO Box 8953
Madison, WI 53707-8953

Dear Senator Miller and Representative Pocan:

The Department of Natural Resources and the Department of Commerce are pleased to transmit to you the Semi-Annual Status Report on Petroleum Storage Remedial Action; Financial Assistance and Petroleum Storage Tank Discharges (PECFA Program), for the period of July 1 through December 31, 2009.

As directed in Wisc. Stats. 101.143 (11), the report summarizes the activities completed for the PECFA Program during the second half of 2009. The report provides the results of implementation of the statutory requirements, including a summary of the pertinent demographic information such as the number of sites within the Program, a breakdown of PECFA costs for claims submitted, a description of cost controls implemented within the Program, and progress made in evaluating fraud and other complaints.

If you or your staff have any questions regarding this report, please contact us so that we can provide any needed clarifications. You can reach Mark Giesfeldt, DNR Bureau Director, Remediation and Redevelopment, at 608-267-7562, and Oscar Herrera, Commerce PECFA Bureau Director, at 608-266-7605.

Sincerely,

Dick J. Leinenkugel, Secretary
Department of Commerce

Matthew J. Frank, Secretary
Department of Natural Resources

Cc: Michael L. Morgan, Secretary, Department of Administration
Janice Mueller, State Auditor, Legislative Audit Bureau
Kendra Bonderud, Legislative Fiscal Bureau

**SEMI-ANNUAL REPORT
ON
PETROLEUM STORAGE REMEDIAL ACTION;
FINANCIAL ASSISTANCE AND PETROLEUM
STORAGE TANK DISCHARGES**

July 1 through December 31, 2009

Wisconsin Department of Commerce
Division of Environmental & Regulatory Services
Petroleum Environmental Cleanup Fund Award (PECFA) Bureau

Wisconsin Department of Natural Resources
Division of Air & Waste Management
Remediation & Redevelopment Bureau

REPORT ON PETROLEUM STORAGE REMEDIAL ACTION; FINANCIAL ASSISTANCE AND PETROLEUM STORAGE TANK DISCHARGES

July 1 through December 31, 2009

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**SEMI-ANNUAL REPORT
PETROLEUM STORAGE REMEDIAL ACTION;
FINANCIAL ASSISTANCE AND PETROLEUM STORAGE TANK
DISCHARGES**

(July 1 through December 31, 2009)

The Departments of Commerce and Natural Resources submit this semi-annual report on the status of activities related to petroleum storage remedial action, financial assistance and petroleum storage tank discharges through the Petroleum Environmental Cleanup Fund Award (hereinafter referred to as the PECFA Program or Program). As directed in Wisc. Stats. 101.143(11), this report summarizes activities completed within the Program during the six-month reporting period of July through December 2009. Both agencies respectfully submit this report to the Governor, the Joint Legislative Audit Committee, and the Joint Committee on Finance, and to other appropriate committees of the legislature as directed by the Statute.

Status of Remediation of Petroleum Sites

To reduce cost and paper, the DNR and Commerce no longer provide the date of receipt of the Site Investigation Report (SIR), the environmental risk factor(s) identified at the contaminated site and notices received for each petroleum product and home oil tank storage tank system discharge as attachments to this *Semi-Annual Report to the Legislature*. However, the DNR and Commerce will have available and will supply upon request, either an electronic or a hard copy of this information.

Risk Classification of Sites

"High-risk site" is defined in the statute to mean the site of a discharge of a petroleum product from a petroleum product storage tank if at least one of the descriptions below applies. High-risk sites are under the jurisdiction of the Department of Natural Resources.

- (a) Discharge has resulted in a concentration of contaminants in a well used to provide water for human consumption that exceeds a preventative action limit.
- (b) Petroleum product present with a thickness of 0.01 feet or more in repeated tests.
- (c) An enforcement standard is exceeded in groundwater within 1000 feet of a well operated by a public utility, or within 100 feet of any other well used for human consumption.
- (d) An enforcement standard is exceeded in bedrock.

"Medium-risk site" is defined in the statute to mean the site of a discharge of a petroleum product from a petroleum storage tank where contaminants have extended beyond the boundary of the source property, or there is confirmed contamination in the groundwater, but the site does not meet the high-risk definition. These sites are under the jurisdiction of the Department of Commerce.

"Low-risk site" is defined in the statute to mean the site of a discharge of a petroleum product from a petroleum storage tank where contaminants are contained only within the soil on the source property and there is no confirmed contamination in the groundwater. Low-risk sites are under the jurisdiction of the Department of Commerce.

The following table summarizes the number of active or closed sites classified as high-risk, medium-risk and low-risk as of December 31, 2009.

The table below displays the site distribution by department, risk classification and status.

Petroleum Tank Sites By Risk Classification as of 12/31/09

	High	Medium	Low	Unknown	Total
Sites In Both Commerce and DNR Databases					
DNR Open Sites	756	35	4	259	1,054
DNR Closed Sites	4,498	1,488	1,601	698	8,285
Commerce Open Sites	0	308	48	0	356
Commerce Closed Sites	0	4,735	2,537	0	7,272
Subtotal	5,254	6,566	4,190	957	16,967
Sites Only in DNR LUST Database					
DNR Open Sites	165	30	7	371	573
DNR Closed Sites	682	644	2,151	598	4,075
Subtotal	847	674	2,158	969	4,648
Total Sites	6,101	7,240	6,348	1,926	21,615

Petroleum Site Closures under the Program

	Closures			Total Closures		
	July 2009 through December 2009			1987 through December 2009		
	COMM	DNR	Total	COMM	DNR	Total
Closures Approved	70	129	199	7,269	12,347	19,616

Open Petroleum Tank Sites, By Risk Classification 12/31/09

	All Open Sites	% of Open Sites	% of Open, Classified Sites	Number of Classified Sites, Excluding sites with Non-Petroleum Related Hazardous Substances	% of Classified Sites, Excluding sites with Non-Petroleum Related Hazardous Substances
High-Risk	921	46.4%	46.4%	756	66.5%
Medium-& Low-Risk	432	21.8%	32.6%	381	33.5%
Unknown	630	31.8%	N/A	N/A	N/A
Total	1,983				

Charges for Engineering Consulting Services

During the reporting period, approximately \$1,536,803.55 of the PECFA expenditures submitted to the PECFA Program were costs associated with engineering consulting services for eligible PECFA site activities. The Program continues to demonstrate a significant reduction in spending for engineering consulting services, due to the cost controls in place.

The total charges for consulting services for petroleum sites claimed during the twenty two-year period from 1987 through December 2009 are \$580,024,221.04.

Total Charges by Providers, Including Engineering Consulting

The charges by service providers, including consultants, for services for which reimbursement is provided under the PECFA Program (including excavating, hauling, laboratory testing and landfill disposal) are provided below.

	Program Costs 07/01/09 – 12/31/09	Total Program Costs 1987 – December 2009
Backfill Costs*	\$0.00	\$30,073,481.09
Consulting Costs	\$1,536,803.55	\$580,024,221.04
Excavation Costs*	\$0.00	\$40,226,656.18
Laboratory Analysis*	\$0.00	\$80,568,180.62
Interest	\$424,631.16	\$275,858,935.46
Non-Eligible Amounts	\$237,505.49	\$96,156,059.07
Other Costs	\$35,505.49	\$17,191,537.84
Remedial Equipment*	\$0.00	\$132,301,669.87
Shipping/Trucking*	\$0.00	\$36,445,432.72
Soil Boring/Well Drilling*	\$0.00	\$73,640,805.39
Thermal/ Landfill/ Disposal*	\$0.00	\$143,968,705.44
Commodity	\$1,523,557.33	\$18,001,324.59
U&C - Eligible**	\$1,337,700.70	\$6,930,344.03
U&C- Non Eligible***	\$119,850.64	\$560,505.58
TOTAL:	\$5,215,188.42	\$1,531,947,858.92
Eligible Total:	\$4,858,198.23	\$1,435,231,294.27
Number of Claims:	298	30,780

* With the implementation of the Usual and Customary Cost Schedule, May 1, 2006, these cost categories are now accounted for in the new category named "Commodity"

U&C - Eligible**-new category as of 5/1/06

U&C - Non Eligible***-new category as of 5/1/06

Dispute Resolution

During the last six months, one dispute has arisen and has been resolved. All past interagency disputes have been resolved. The agencies will continue to meet as needed to resolve any future interagency disputes.

Monitoring of Questionable Claims & Complaints, Including Fraud

The PECFA Bureau uses several strategies for identifying possible fraud in the Program. These include fraud evaluation during routine claim audits; targeted internal review by staff; evaluation by Department of Justice of potential fraud; and tracking of complaints against engineering consulting firms, as well as commodity service providers.

Claim review staff continues to watch for evidence of fraud within the Program. Reviews include an evaluation of compliance with bid procedures as well as appropriateness of information provided in submittals. The Department's Field Auditor conducts follow-up audits and, when enough information is available, PECFA refers these cases to the Department of Justice, which then pursues an investigation.

Commerce has not referred any complaints to the Department of Regulation & Licensing during the six-month reporting period of July through December 2009. No consulting firm or individual was disqualified during this reporting period.

Status of PECFA Appeals Backlog and Efforts to Improve the Appeal Process

Appeals	Current Reporting Period	Past Reporting Period
Received	25	21
Amount on Appeal	\$120,633	\$56,663
Hearings	1	2
Closed	18	27
Settled	14	19
Withdrawn	3	6
Dismissed	0	0
Decisions	0	0
Decisions by Circuit Court	0	0

Summary

The Departments of Commerce and Natural Resources continue to work together to improve the delivery of the PECFA Program. Bureau Directors and key staff from both agencies met on a regular basis during this reporting period to work on interagency issues of concern, including consistency. We continue to investigate, remediate, and close properties contaminated by petroleum, implement cost controls, and improve the appeal process. Finally, both departments maintain websites allowing the public to view site-specific details.

Commerce *TRACKER on the Web:*

http://commerce.wi.gov/php/ERS_Tracker_on_web/ers_tracker_on_web.php

DNR *BRRTS on the Web:*

<http://botw.dnr.state.wi.us/botw/Welcome.do>